

HOUSE BILL No. 1664

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-21; IC 6-3.1-31.

Synopsis: Tax credits for property maintenance. Authorizes the designation of property maintenance areas (PMA) in any municipality. Provides that the fiscal body of a municipality may designate the PMA and provide an income tax credit for qualified expenditures made for certain maintenance activities performed on certain property in a PMA. Requires the department of state revenue and the county auditor to reduce the amount of property tax replacement credits distributed to a municipality in an amount equal to the total amount of income tax credits awarded for property maintenance in the municipality.

Effective: July 1, 2007.

GiaQuinta

January 23, 2007, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1664

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-21-3, AS AMENDED BY P.L.162-2006,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 3. (a) The department, with the assistance of the
4 auditor of state and the department of local government finance, shall
5 determine an amount equal to the eligible property tax replacement
6 amount, which is the estimated property tax replacement.
7 (b) The department of local government finance shall certify to the
8 department the amount of homestead credits provided under
9 IC 6-1.1-20.9 which are allowed by the county for the particular
10 calendar year. The department of local government finance shall make
11 the certification based on the best information available at the time the
12 certification is made.
13 (c) If there are one (1) or more taxing districts in the county that
14 contain all or part of an economic development district that meets the
15 requirements of section 5.5 of this chapter, the department of local
16 government finance shall estimate an additional distribution for the
17 county in the same report required under subsection (a). This additional

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distribution equals the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Estimate that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the estimated property tax replacement amount attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(d) If one (1) or more municipalities in the county have established a property maintenance area under IC 6-3.1-31, the department shall reduce that particular county's distribution by an amount equal to the total amount of credits awarded under IC 6-3.1-31 to a taxpayer in a property maintenance area in a taxable year ending before the county's estimated distribution is calculated under this section.

(e) For distributions made:

(1) before January 1, 2009, the sum of the amounts determined under subsections (a) through (c); **and**

(2) after December 31, 2008, the sum of the amounts determined under subsections (a) through (d);

is the particular county's estimated distribution for the calendar year.

SECTION 2. IC 6-1.1-21-4, AS AMENDED BY P.L.228-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Each year the department shall allocate from the property tax replacement fund an amount equal to the sum of:

(1) each county's total eligible property tax replacement amount for that year; plus

(2) the total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year; plus

(3) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

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STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5; minus

(4) for any distribution made after December 31, 2008, an amount for each county that contains a municipality that has established a property maintenance area under IC 6-3.1-31. This amount is equal to the total amount of credits awarded under IC 6-3.1-31 to a taxpayer in a property maintenance area in a taxable year ending before the county's estimated distribution is calculated under section 3 of this chapter.

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half (1/2) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half (1/2) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state, adjusted for postabstract adjustments

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1 included in the December settlement sheet for the year, and such
2 additional information as the department may require.

3 (d) All distributions provided for in this section shall be made on
4 warrants issued by the auditor of state drawn on the treasurer of state.
5 If the amounts allocated by the department from the property tax
6 replacement fund exceed in the aggregate the balance of money in the
7 fund, then the amount of the deficiency shall be transferred from the
8 state general fund to the property tax replacement fund, and the auditor
9 of state shall issue a warrant to the treasurer of state ordering the
10 payment of that amount. However, any amount transferred under this
11 section from the general fund to the property tax replacement fund
12 shall, as soon as funds are available in the property tax replacement
13 fund, be retransferred from the property tax replacement fund to the
14 state general fund, and the auditor of state shall issue a warrant to the
15 treasurer of state ordering the replacement of that amount.

16 (e) Except as provided in subsection (g) and subject to subsection
17 (h), the department shall not distribute under subsection (b) and section
18 10 of this chapter a percentage, determined by the department, of the
19 money that would otherwise be distributed to the county under
20 subsection (b) and section 10 of this chapter if:

21 (1) by the date the distribution is scheduled to be made, the
22 county auditor has not sent a certified statement required to be
23 sent by that date under IC 6-1.1-17-1 to the department of local
24 government finance;

25 (2) by the deadline under IC 36-2-9-20, the county auditor has not
26 transmitted data as required under that section;

27 (3) the county assessor has not forwarded to the department of
28 local government finance the duplicate copies of all approved
29 exemption applications required to be forwarded by that date
30 under IC 6-1.1-11-8(a);

31 (4) the county assessor has not forwarded to the department of
32 local government finance in a timely manner sales disclosure
33 forms under IC 6-1.1-5.5-3(b);

34 (5) local assessing officials have not provided information to the
35 department of local government finance in a timely manner under
36 IC 4-10-13-5(b);

37 (6) the county auditor has not paid a bill for services under
38 IC 6-1.1-4-31.5 to the department of local government finance in
39 a timely manner;

40 (7) the elected township assessors in the county, the elected
41 township assessors and the county assessor, or the county assessor
42 has not transmitted to the department of local government finance

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by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b);

(8) the county has not established a parcel index numbering system under 50 IAC 12-15-1 in a timely manner; or

(9) a township or county official has not provided other information to the department of local government finance in a timely manner as required by the department.

(f) Except as provided in subsection (i), money not distributed for the reasons stated in subsection (e) shall be distributed to the county when the department of local government finance determines that the failure to:

(1) provide information; or

(2) pay a bill for services;

has been corrected.

(g) The restrictions on distributions under subsection (e) do not apply if the department of local government finance determines that the failure to:

(1) provide information; or

(2) pay a bill for services;

in a timely manner is justified by unusual circumstances.

(h) The department shall give the county auditor at least thirty (30) days notice in writing before withholding a distribution under subsection (e).

(i) Money not distributed for the reason stated in subsection (e)(6) may be deposited in the fund established by IC 6-1.1-5.5-4.7(a). Money deposited under this subsection is not subject to distribution under subsection (f).

SECTION 3. IC 6-1.1-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Each year the taxpayers of each county shall receive a credit for property tax replacement in the amount of each taxpayer's property tax replacement credit amount for taxes which:

(1) under IC 6-1.1-22-9 are due and payable in May and November of that year; or

(2) under IC 6-1.1-22-9.5 are due in installments established by the department of local government finance for that year.

The credit shall be applied to each installment of taxes. The dollar amount of the credit for each taxpayer shall be determined by the county auditor, based on data furnished by the department of local government finance.

(b) The tax liability of a taxpayer for the purpose of computing the

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credit for a particular year shall be based upon the taxpayer's tax liability as is evidenced by the tax duplicate for the taxes payable in that year, plus the amount by which the tax payable by the taxpayer had been reduced due to the application of county adjusted gross income tax revenues to the extent the county adjusted gross income tax revenues were included in the determination of the total county tax levy for that year, as provided in sections 2(g) and 3 of this chapter, adjusted, however, for any change in assessed valuation which may have been made pursuant to a post-abstract adjustment if the change is set forth on the tax statement or on a corrected tax statement stating the taxpayer's tax liability, as prepared by the county treasurer in accordance with IC 6-1.1-22-8(a). However, except when using the term under section 2(l)(1) of this chapter, the tax liability of a taxpayer does not include the amount of any property tax owed by the taxpayer that is attributable to that part of any property tax levy subtracted under section 2(g)(1)(B), 2(g)(1)(C), 2(g)(1)(D), 2(g)(1)(E), 2(g)(1)(F), 2(g)(1)(G), 2(g)(1)(H), 2(g)(1)(I), 2(g)(1)(J), or 2(g)(1)(K) of this chapter in computing the total county tax levy.

(c) The credit for taxes payable in a particular year with respect to mobile homes which are assessed under IC 6-1.1-7 is equivalent to the taxpayer's property tax replacement credit amount for the taxes payable with respect to the assessments plus the adjustments stated in this section.

(d) Each taxpayer in a taxing district that contains all or part of an economic development district that meets the requirements of section 5.5 of this chapter is entitled to an additional credit for property tax replacement. This credit is equal to the product of:

- (1) the STEP TWO quotient determined under section 4(a)(3) of this chapter for the taxing district; multiplied by
- (2) the taxpayer's taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(e) Each year after December 31, 2008, the county auditor shall reduce the amount of the credits for property tax replacement for all taxpayers in a municipality that has established a property maintenance area under IC 6-3.1-31. This amount is equal to the total amount of credits awarded under IC 6-3.1-31 to any taxpayer in a property maintenance area located in the municipality in a taxable year ending before the county's estimated distribution is calculated under section 3 of this chapter.

SECTION 4. IC 6-3.1-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

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Chapter 31. Property Maintenance Credit

Sec. 1. As used in this chapter, "landlord" has the meaning set forth in IC 32-31-3-3.

Sec. 2. As used in this chapter, "maintenance activity" means the remodeling, repair, or improvement of property as defined by a municipality in a PMA ordinance adopted under section 11 of this chapter.

Sec. 3. As used in this chapter, "municipality" means a city or town.

Sec. 4. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

Sec. 5. As used in this chapter, "PMA ordinance" means an ordinance adopted by the fiscal body of a municipality under section 11 of this chapter.

Sec. 6. (a) As used in this chapter, "property" means a building or structure:

- (1) assessed as real property under IC 6-1.1-4; and
 - (2) listed in a PMA ordinance adopted under section 11 of this chapter.
- (b) The term does not include land.

Sec. 7. As used in this chapter, "property maintenance area" means an area established by a municipality under section 11 of this chapter.

Sec. 8. As used in this chapter, "qualified expenditure" means an expenditure made by a taxpayer for maintenance activities that qualify the taxpayer for a credit under this chapter as determined under a PMA ordinance adopted under section 11 of this chapter.

Sec. 9. As used in this chapter, "state tax liability" means a taxpayer's total tax liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax), as computed after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 10. As used in this chapter, "taxpayer" means an individual, a corporation, an S corporation, a partnership, a limited liability company, a limited liability partnership, a nonprofit organization, or a joint venture.

Sec. 11. (a) The fiscal body of a municipality may adopt an ordinance establishing a property maintenance area to provide a

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credit against the taxpayer's state tax liability in the taxable year in which the taxpayer has made qualified expenditures on the taxpayer's property in the property maintenance area. The ordinance shall be referred to as a PMA ordinance. The boundaries of a property maintenance area may not exceed five percent (5%) of the total land area of the municipality.

(b) A PMA ordinance adopted under subsection (a) must be in effect for at least one (1) year and not more than ten (10) years and must include the following:

(1) The geographic boundaries of the property maintenance area.

(2) A list or definition of:

(A) the types of property; and

(B) the maintenance activities;

that may entitle a taxpayer to a credit under this chapter.

(3) The eligibility qualifications for a contractor to perform maintenance activities within the property maintenance area.

(4) The criteria for a landlord to be eligible for a credit under this chapter.

(5) The amount of the credit permitted under this chapter.

(c) The amount of a credit permitted under this chapter may not exceed the lesser of:

(1) fifty percent (50%) of the qualified expenditures made on the taxpayer's property in the property maintenance area; or

(2) one thousand five hundred dollars (\$1,500).

(d) The list or definition of maintenance activities determined by the municipality under subsection (b)(2) may include installing, repairing, or upgrading:

(1) roofing;

(2) siding;

(3) a furnace;

(4) a window or windows;

(5) paint;

(6) a foundation;

(7) electrical wiring; or

(8) plumbing.

(e) The eligibility qualifications established under subsection (b)(3):

(1) may not prohibit or disallow a credit for the cost of a taxpayer's performance of maintenance activities on property owned by the taxpayer if all other requirements and qualifications are satisfied for obtaining a credit under this

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chapter; and

(2) may require a contractor to submit to the fiscal body of the municipality:

(A) proof of a valid contractor's license;

(B) any complaints filed with a better business bureau or a federal, state, or local unit of government; and

(C) financial statements or business plans of the contractor.

(f) The criteria established under subsection (b)(4) must require a landlord to:

(1) report any violations relating to any health or housing codes applicable to any property in which the landlord has an interest;

(2) submit a plan, before receiving a credit under this chapter, to correct all violations reported under subdivision (1); and

(3) repay the amount of any credits awarded under this chapter if the landlord does not correct all violations reported under subdivision (1) within a reasonable time, as determined by the municipality.

Sec. 12. If a taxpayer:

(1) makes a qualified expenditure on the taxpayer's property in a property maintenance area; and

(2) meets all the other requirements set forth in the PMA ordinance adopted by the municipality where the taxpayer's property is located;

the taxpayer is entitled to a credit under this chapter against the taxpayer's state tax liability.

Sec. 13. In the case of a husband and wife who:

(1) own property jointly; and

(2) file separate tax returns;

the husband and wife may take the credit permitted under this chapter in equal shares or one (1) spouse may take the whole credit.

Sec. 14. (a) If a pass through entity is entitled to a credit under this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

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(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same maintenance activity.

Sec. 15. To obtain a credit under this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue all information that the department of state revenue determines is necessary for the calculation of the credit provided by this chapter. The taxpayer shall forward a copy of any information provided to the department of state revenue under this section to the municipality that adopted the PMA ordinance under which the taxpayer is claiming a credit under this chapter.

Sec. 16. If a municipality adopts a PMA ordinance, the municipality shall forward:

(1) to the department of state revenue any information the department determines is necessary to reduce the distribution amount for property tax replacement under IC 6-1.1-21-3 and IC 6-1.1-21-4 for the county in which the municipality is located; and

(2) to the county auditor of the county in which the municipality is located any information the county auditor determines is necessary to reduce the amount of the credits for property tax replacement for all taxpayer's in the municipality under IC 6-1.1-21-5.

Sec. 17. The department may adopt rules under IC 4-22-2 to carry out the provisions of this chapter.

SECTION 5. [EFFECTIVE JULY 1, 2007] IC 6-3.1-31, as added by this act, applies to taxable years beginning after July 1, 2007.

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